Kerala Gazette No. 27 dated 8th July 1958.
PART I

Labour and Local Administration Department.

NOTIFICATION

No. 37230/L2/58-1. *Dated, Trivandrum, 23rd June 1958.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between the Management of Messrs. A. T. K.M. and Sons, Cashew Factory, Enath and their workmen represented by the Central Travancore Cashewnut Factory Workers' Union, Enath received by Government on 19-6-1958 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. JACOB,
Secretary.

Before

SRI K. PURUSHOTHAMAN NAIR B. A., B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 62 OF 1954

Between

THE MANAGEMENT OF

MESSRS. A. T. K. M. AND SONS CASHEW FACTORY, ENATH

And

THEIR WORKMEN

REPRESENTED BY THE CENTRAL TRAVANCORE CASHEWNUT FACTORY WORKERS' UNION, ENATH.

Representations:—

1. Sri N. Palpu, Advocate, Quilon on behalf of the Management.
2. Sri T. K. Divakaran on behalf of the Central Travancore Cashewnut factory workers' Union.

AWARD.

The Industrial Dispute between the parties mentioned above was referred to this Tribunal for adjudication by Government by Order L. 2-21345/54/DD., dated 18-11-1954 and the only issue referred is as under:

1. Whether the discharge of the six workers listed below by the Management of Messrs. A. T. K. M. and Sons Ltd., Branch Factory, Enath, justifiable? To what reliefs are they entitled.

(a) If the discharge is not justifiable ?
(b) If the discbarge is justifiable ?

i. Pappen, Pulivilayil, Enath.
ii. Baby Padippura Veedu, Enath.
iii. Gopalan Nair, Illikakath, Mannadi.
iv. Govindan, Koyikkal, Kulakkada.
v. Husan Rauther, Mullikattil Padinjattil.
vi. Daniel Palavila, Enath.

2. The parties to the dispute entered appearance and as usual they filed their respective statements. They also let in some evidence and when it stood posted for evidence and disposal on I4-6-1958 the management and the union settled the dispute out of court and filed a compromise petition. The compromise petition is signed on behalf of the Management by the Manager, Musaliar Industries Private Ltd., Branch Enath and on behalf of the Union by its President. It contains the following terms:--

(I) The worker No. 4 in the order of reference, Govindan, Koyikkal, Kulakkada will be given shelling work in the above factory from 16-6-1958.

(2) The otber workers in the Order of reference namely Sree Pappen, Baby, Gopalan Nair, Hassan Rauther, and Daniel will be given *MYCAUD* work in the above factory at least three days in every week from the 23rd June 1958. When more work is available these workers will be given preference.

(3) The services of the said six workers will be deemed to commence from the dates above referred to.

3. I find tbe terms of the compromise fair and will serve the interests of the workmen and I accept the same. An award is passed in terms thereof.

Trivandrum,
18-6-1958.

K. PURUSHOTHAMAN NAIR,
Industrial Tribunal.

Kerala Gazette No. 27 dated 8th July 1958.

PART I

Labour and Local Administration Department

NOTIFICATION

No. 37228/L2/58-1 *Dated, Trivandrum, 23rd June 1958.*

The award of the Industrial Tribunal, Trivandrum under Section 33A of the Industrial Disputes Act, 1947 in respect of the dispute between the management of Messrs. A. T. K. M. Tile Works, Kottiyam, and their workmen represented by the Travancore Tile Workers' Union, Quilon received by Government on 19-6-1958 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. JACOB,
Secretary.

Before

SHRI K. PURUSHOTHAMAN NAIR, B. A., B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 1/1958

Between

1. Krishnan Sukumaran,
2. Sankaran Raghavan,
3. Aliar Kunju Abdul Salam,
4. Abdul Khader Meera Sahib,
5. Narayanan Viswanathan,
6. Hassan Bava Haneefa,
7. Abdulla Kunju Kaleed Kutty.

THE WORKMEN OF THE A. T. K. M. TILE WORKS, KOTTIYAM REPRESENTED BY THE TRAVANCORE TILE WORKERS' UNION, QUILON

And

THE MANAGEMENT

MESSRS. A. T. K. M. TILE WORKS, KOTTIYAM.

Representations:—

1. Sri N. Palpu, Advocate, Quilon on behalf of the Management.
2. Sri T. K. Divakaran, Vice President, Travancore Tile Workers' Union, Quilon on behalf of the workmen.

AWARD

This is a complaint under Section 33 A of the Industrial Disputes Act, 1947 filed by 7 workers of the A. T. K. M., Tile Works, Kottiyam. Their complaint is that during the pendency

of I. D. No. 58 of 1955 in which the opposite party and his workmen including these complainants are parties, the opposite party without the permission of this Tribunal discharged them from service on 31-12-1957 without any justifiable reason and thereby contravened the provisions of Section 33 of the Act. The Opposite party in his reply statement challenged the complaint on merits as well as on its maintainability. According to the Management they were not factory workers but casual workmen occasionally taken for mycaud work in masonry, carpentry etc. and the management had the right to terminate their services on issue of 15 days' notice. It is also stated that these workmen were discharged after giving 15 days' notice.

2. When the case stood posted for evidence and disposal on 14-6-1958, the parties to the dispute filed a compromise petition which contains the following terms:

(1) Of the seven workers mentioned in the workers statement, K. Sukumaran, S. Raghavan, A. Abdul Salam and S. Haneefa will be taken in service in the four vacancies now existing in the firm from 20th of June 1958.

(2.) The remaining three workers A. Kaleed Kutty, A. Meera Sahib and N. Viswanathan will be given due preference in the order mentioned in future vacancies or when work is available.

3. There is also a prayer that an award may be passed as above. The terms of the compromise are fair and I accept the same and pass this award in terms thereof.

Trivandrum,
18-6-1958.

K. Purushothaman Nair,
Industrial Tribunal.

Kerala Gazette No. 27 dated 8th July 1958.

PART I

Labour and Local Administration Department

NOTIFICATION

No. 37229/L2/58-1. *Dated, Trivandrum, 23rd June 1958.*

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between the management of the Kerala Motor Service, Trivandrum and their workmen represented by the Trivandrum District Motor Service and Workshops Employees' Union, Trivandrum received by Government on 19-6-1958 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. JACOB,
Secretary.

Before

SHRI K. PURUSHOTHAMAN NAIR, B. A., B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 16 OF 1956.

Between

THE MANAGEMENT
OF THE KERALA MOTOR SERVICE, TRIVANDRUM

And

THEIR WORKMEN

REPRESENTED BY THE TRIVANDRUM DISTRICT MOTOR SERVICE AND WORKSHOPS EMPLOYEES UNION, TRIVANDRUM.

Representations:

1. Shri R. Ramalingom Iyer, Advocate, Trivandrum on behalf of the Management.
2. Shri K. V. Surendranath, President, the Trivandrum District Motor Service and Workshops Employees' Union, Trivandrum on behalf of the workmen.

AWARD

This industrial dispute between the Management of the Kerala Motor Service, Trivandrum and the Workmen of the above Motor Service represented by the Trivandrum District Motor Service and Workshops Employees' Union, Trivandrum was referred to this Tribunal for adjudication by Order L2-27306/55/DD. dated 20-1-1956. The issue referred is:

Is the Management justified in refusing employment to Shri Pushkara Panicker.

To what relief he is entitled—

(a) if the refusal of employment is justifiable ?
(b) if the refusal of employment is unjustifiable ?

2. As usual the parties filed their statement and counter-statement and when the dispute came up for evidence and disposal

on 7-6-1958 the Proprietress, K. M. S., Trivandrum and Shri K. V. Surendranath, President of the Union filed a compromise petition settling the dispute out of Court. The compromise petition contains the following terms :—

(1) The Union agrees to give up the claim of the Union in respect of the reinstatement of Shri Pushkara Panicker, Driver, K. M. S.

(2) The Proprietress agrees to pay Shri Pushkara Panicker, Driver, Rs. 500 (Rupees five hundred) by way of relief in full and final settlement of his claims, before 15-7-1958.

(3) The above conditions being agreed to, the parties pray that the award may be passed in terms of the settlement.

3. I find the above terms fair and accept the compromise as prayed for.

Award passed in terms thereof.

Trivandrum,
18-6-1958.

K. PURUSHOTHAMAN NAIR,
Industrial Tribunal.

Kerala Gazette No. 27 dated 8th July 1958.

PART I

Labour and Local Administration Department

NOTIFICATION

No. 36554/L4/58. *Dated, Trivandrum, 23rd June 1958.*

The award of the Labour Court, Quilon in respect of the dispute between the management, Cochin Club, Cochin and their workmen represented by the Club and Bungalow Workmen's Association, Cochin-1 received by Government on 17-6-1958 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. JACOB,
Secretary.

Before the Labour Court, Quilon

Present

SRI P. SANKU PILLAI, B. A., B. L.

In

INDUSTRIAL DISPUTE No. 12/58

Between

THE MANAGEMENT

COCHIN CLUB, COCHIN-1

And

THE WORKMEN

OF THE ABOVE CONCERN REPRESENTED BY THE CLUB AND BUNGALOW WORKMEN'S ASSOCIATION, COCHIN-1

AWARD.

This industrial dispute between the management, Cochin Club, Cochin-1 and the workmen of the above concern represented by the Club and Bungalow Workmen's Association, Cochin-1 was referred to the Labour Court, Ernakulam by the Government for adjudication under section 10(1) (c) of the Industrial Disputes Act of 1947 (Central Act XIV of 1947) by Order No. L. Dis. 11462/57/L & LAD. dated 18-7-1957 and registered by that Court as I. D. No. 9/57 and after the abolition of that Court this dispute was transferred to this court and re-numbered as I. D. No. 12/58. The question referred for adjudication is "Whether the managements of the Cochin Club are justified in dismissing their workmen M/s. M. P. Devassy and P. J. Joseph? If not to what reliefs are the workmen entitled ?"

The case put forward by the union in their statement is the following. M/s. M. P. Devassy and P. J. Joseph were serving the management in the capacity of rollermen in the club. They

had put in 12 years and 14 years of continuous and unblemished service respectively and on 20-7-1956, they were dismissed from the service by the management. The management club is an organisation consisting of more than 75 members arranging for all types of indoor and outdoor games and the club has got bar facilities also. It is running a canteen, and it had lodging facilities, but that was stopped two years back. At present the main business of the club is to arrange for the recreation of its members of which tennis being most popular. The workmen are divided into small groups and particular type of work is allotted to each of these groups. The dismissed workmen were attached to the games section. A garden is maintained in the club premises. There is a head gardener under whom there two assistant gardeners and a sweeper. Besides these workmen casual workmen are also engaged on daily rate basis for additional work. In January 1956 the head gardener died and since then that vacancy was not filled up but the services of temporary workmen were made use of by the management to do the work of the head gardener. On 14-6-1956 the management suddenly demanded Messrs. M. P. Devassy and P. J. Joseph to attend to the gardening work in addition to their normal work. They replied that they are prepared to do the job provided they are paid at a higher rate since the gardening work involves additional physical strain. The management insisted on their unlawful stand. The association took up the cause of the workmen and tried to bring about a compromise, but nothing could be done since the management was adamant. The management suspended the two workmen on 13-7-1956 and subsequently dismissed them from service on 20-7-1956 for alleged misconduct. The above dismissal is illegal, arbitrary and opposed to all canons of natural justice. No enquiry was conducted and they have not been informed of any charges against them. There was no opportunity for the workmen to vindicate their innocence. In the conciliation stage also the management was not prepared for an amicable settlement. The union therefore prays that the two workmen be reinstated with back wages.

In the reply statement filed by the management the following contentions were raised. M/s. M. P. Devassy and P. J. Joseph were outdoor workers in the Cochin Club grounds. They had various duties in connection with the upkeep of the grounds and their total working hours were eight. Previously their duty time-table was as follows :—

7.30 to 10.30 a. m.	—	Rolling tennis courts.
11 to 12 a. m.	—	Relieving watchmen.
3 to 7 p. m.	—	Put up nets, watering roads and pumping water.

and it was changed with effect from 14-6-1956 to:—

7.30 to 10.30 a. m.	—	Rolling the courts.
11 to 12 a. m.	—	Relieving the watchmen.
2.30 to 4.30 p. m.	—	Putting up nets, pumping water, etc.
4.30 to 6.30 p. m.	—	Mowing the lawns.

The change did not involve any increase in the total hours of work or any increase in the physical strain. The revised time-table was extremely reasonable and they were bound to carry out the same. They refused to carry out mowing the lawns. Their refusal is misconduct on their part. At an enquiry held they admitted their refusal and they were warned by letter dated 7-7-1956 that any future refusal would result in their dismissal. In spite of that they persisted in their refusal and so they were kept under suspension by letter dated 13-7-1956. A letter was issued to them on 17-7-1956 giving them one more chance to retain their employment and explaining the reasonableness of the duties allotted to them. They again refused and so the management terminated their services by letter dated 20-7-1956. Their termination of service is for justifiable reasons. The allegation that the two dismissed workmen were attached to the game section is incorrect. They had to do outdoor work assigned to them which includes mowing. The management has no other go but to terminate their services. Their termination of service is for justifiable reasons and should be upheld. The dispute referred for adjudication is not an industrial dispute and the Labour Court has no jurisdiction to adjudicate the same. The workmen are not entitled to be reinstated or to get any other reliefs.

In the rejoinder filed by the union the contentions raised by the management are controverted. It is further stated that between the workmen on the one hand and the management on the other, there exists the employer-employee relationship which is governed by the Industrial Disputes Act. The Labour Court alone has got jurisdiction to adjudicate the same.

The union has examined WWs 1 and 2, and produced Exts. W1 to W10 to prove their case. The management has examined MWs 1 and 2 and produced Exts. M1 to M17.

Issue No. 1. First of all it has to be observed that the issue is not aptly worded in the order of reference. The aggrieved workmen were only discharged from service as seen from Exts. (W7 or M13), W8 or M12. It is not the case of the management also that the workmen were dismissed from service though the union in their statement treated the action of the management as one of dismissal. So the issue ought to have been "Whether the management of the Cochin Club was justified in terminating the services of their workmen M/s. M. P. Devassy and P. J. Joseph". Now I shall consider whether the action taken by the management can be justified. There is nothing to show that the aggrieved workmen were appointed to do specific outdoor work. The Manager of the Club, who is examined as MW1 swears to that effect and states that their work is of a miscellaneous nature. Exts. (W1 or M1) is the revised duty time-table which the workmen were directed to adhere. The workmen in reply to that letter have sent Ext. W2 which is rather strongly worded demanding a reconsideration of Ext. W1 duty time-table and refusing to mow the lawns. Things were in that stage till 6-7-1956 when an enquiry was conducted by the Manager of the Club at which the workmen admitted, refusing

to mow the lawns. That is seen from Exts. M2 and M3 letters sent to the two workmen by the management. In that letter the management had also indicated that any further refusal will incur their dismissal from service. Sri Joseph, who is examined as WW1 would categorically admit that the enquiry was conducted by the management and that they refused to mow the lawns. He swears "സെക്രട്ടറി മാനേജരുടെ സാന്നിദ്ധ്യത്തിൽ ഞങ്ങളോട് ചോദിച്ചു ഈ ശമ്പളത്തിൽ പുല്ലു വെട്ടാൻകൂടി സാധിക്കുമോ എന്ന്. സാദ്ധ്യമല്ലെന്നു ഞങ്ങൾ പറഞ്ഞു". Further down he swears "പുല്ലു വെട്ടുന്ന ജോലി ശരിയായ ശമ്പളം തന്നാൽ ഞങ്ങൾ ചെയ്യാമെന്നു പറഞ്ഞു". Exts. M4 and M5 are the replies to M2 and M3 dated 9-7-1956 sent by the workmen to the management. In Exts. M4 and M5 these workmen have reaffirmed their stand and have also expressed their inability to accept the warning contained in Exts. M2 and M3. Exts. M6 and M7 are orders of the management dated 13-7-1956 placing the workmen under suspension. After that the management has sent Exts. (M8 or W4) and (M9 or W3) letters dated 17-7-1956. From those letters it is clear that the management was indulgent enough to give them one more chance of retaining their employment by calling upon them to report for duty on or before 20-7-1956 and do the work specified in the revised time-table failing which they would be dismissed. The workmen still persisted in their stand by sending Ext. M10 (W6) and M11 (W5) replies, dated 18-7-1956. As the workers in spite of repeated warning refused to comply with the directions of the management even on 20-7-1956 the management was constrained to terminate their services with effect from 21-7-1956 by Ext. M12 (W8) and M13 (W7). It is to be noted that by the revision of the time-table their duty hours have not been increased. The number of their duty hours remained the same. MW1 the Manager swears that the work of mowing the lawns does not involve any additional strain. He swears that the weight of the mowing machine is 25 lb. and it rotates on ball bearings. He further swears that the reason for introducing the change was to bring parity of work among the outdoor workers including gardeners. From the above it is clear that the workers were not justified in refusing to do the work according to the revised time-table and their refusal really amounts to misconduct. I therefore hold for the above reasons that the management was perfectly justified in terminating the services of these workmen that they are not entitled to be reinstated.

The next point to be considered is whether the workmen are entitled to get any compensation. Considering the duration of the past services of these workmen and also in view of the fact that they were only discharged by the management I think that it is only just and proper that they should be awarded compensation at the rate of 15 days' wages for every completed year of their services. Shri M. P, Devassy has put in 11 years of service and Sri P. J. Joseph in 13 years of service and their pay was Rs. 40 per mensem. Calculating on the above basis I direct that the management should pay Rs. 220 to Sri M. P. Devassy and Rs. 260 to Sri P. J. Joseph as compensation. The above amount will be paid to them by the management within one month after the publication of the award in the Government Gazette, failing

which they are allowed to recover the same. They are also allowed to recover their provident fund contributions.

I accordingly pass an award as indicated above. It will take effect on the expiry of one month of the publication of the same in the Government Gazette under section 17 of the Industrial Disputes Act, 1947. The parties will bear their respective costs in the circumstances of this case.

Quilon,
14-6-1958.

P. SANKU PILLAI,
Presiding Officer.

APPENDIX.

Witness on the side of the Union.

WW1 Sri P. J. Joseph.
WW2 Sri P. K. Chakrapani.

Witness on the side of the Management.

MW1 Sri M. Sahadevan.
MW2 Sri R. J. Watson.

Exhibits marked on the side of the Union.

W1. Letter dated 14th June 1956 from the Honorary Secretary, Cochin Club to Messrs. P. J. Joseph, M. P. Devassy, Tennis Rollers, Cochin Club, Cochin.
W2. Petition dated 15-6-1956 from Messrs. P. J. Joseph, M. P. Devassy, Tennis Rollers, Cochin Club to the Honorary Secretary, Cochin Club.
W3. Reply letter dated 17th July 1956 from the Honorary Secretary, Cochin Club to Sri M. P. Devassy, Tennis Roller.
W4. Reply dated 17th July 1956 from the Honorary Secretary, Cochin Club to Sri P. J. Joseph, Tennis Roller.
W5. Reply dated 18-7-1956 from Sri M. P. Devassy to the Honorary Secretary, Cochin, Club.
W6. Reply dated 18-7-1956 from Sri P. J. Joseph to the Honorary Secretary, Cochin Club.
W7. Letter dated 20th July 1956 from the Honorary Secretary to Sri M. P. Devassy.
W8. Letter dated 20th July 1956 from the Honorary Secretary Cochin Club to P. J. Joseph.
W9. Letter dated 14th July 1956 from the General Secretary to the Honorary Secretary, the Club and Bungalow Workmen's Association, Cochin and copy to the Labour Officer, Kozhikode.
W10. Conciliation Report submitted by Sri A. Gopalan Kutty Vydier, Labour Officer, Kozhikode dated 6-10-1956.

Exhibits marked on the side of the Management.

M1. Letter dated 14th June 1956 with Duty Time Table from the Honorary Secretary, Cochin Club to Messrs. P. J. Joseph and M. P. Devassy, Tennis Rollers, Cochin Club.
M2. Warning letter dated 7th July 1956 from the Honorary Secretary, Cochin Club to Sri M. P. Devassy.

M2(a) Warning letter dated 7th July 1956 from the Honorary Secretary, Cochin Club to Sri M. P. Devassy.

M3. Warning letter dated 7th July 1956 from the Honorary Secretary, Cochin Club to Sri P. J. Joseph.

M3(a) Warning letter dated 7th July 1956 from the Honorary Secretary, Cochin Club to Sri P. J. Joseph.

M4. True copy of the reply dated 9-7-1956 from Sri P. J. Joseph, Rollerman to the Honorary Secretary, Cochin Club.

M5. True copy of reply dated 9-7-1956 from Sri M. P. Devassy, Rollerman to the Honorary Secretary, Cochin Club.

M6. Letter dated 13th July 1956 from the Honorary Secretary to Sri M. P. Devassy, Tennis Roller, Cochin Club.

M7. Letter dated 13th July 1956 from the Honorary Secretary to Sri P. J. Joseph, Tennis Roller, Cochin Club.

M8. True copy of the letter dated 17th July 1956 from the Honorary Secretary, Cochin Club to Sri P. J. Joseph.

M9. True copy of the letter dated 17th July 1956 from the Honorary Secretary, Cochin Club to Sri M.P. Devassy.

M10. True copy of the letter dated 18-7-1956 from Sri P. J. Joseph to the Honorary Secretary, Cochin Club.

M11. True copy of letter dated 18-7-1956 from Sri M.P. Devassy to the Honorary Secretary, Cochin Club.

M12. Letter dated 20th July 1956 from the Honorary Secretary, Cochin Club to Sri P. J. Joseph.

M13. Letter dated 20th July 1956 from the Honorary Secretary, Cochin Club to Sri M. P. Devassy.